

STATE OF CALIFORNIA  
REGIONAL WATER QUALITY CONTROL BOARD  
SANTA ANA REGION

In the matter of:	)	Complaint No. 01-91
	)	for
VIP Rubber Company, Inc.	)	Administrative Civil Liability
540 South Cypress Street	)	
La Habra, CA 90631	)	
	)	
<u>Att: Howard Vipperman, President</u>	)	

YOU ARE HEREBY GIVEN NOTICE THAT:

1. You are alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), may impose liability under Section 13385 of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within sixty days of the date of issuance of this Complaint. The hearing in this matter has been scheduled for the Board's regular meeting on September 14, 2001 at the Orange County Water District office, Fountain Valley, California. You or your representative will have an opportunity to appear and be heard, and to contest the allegations in this Complaint and the imposition of civil liability by the Board. An agenda for the meeting will be mailed to you not less than 10 days prior to the hearing date.
3. At the hearing, the Board will consider whether to affirm, reject or modify the proposed administrative civil liability or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. Facilities that discharge storm water associated with industrial activity requiring a permit are listed by category in 40 CFR Section 122.26(b)(14) and in Attachment 1 of the General Permit for Storm Water Discharges Associated Industrial Activities (General Permit). Industries involved in the manufacturing of fabricated rubber products, such as VIP Rubber Company, Inc. (VIP), fall under Standard Industrial Classification (SIC) code 3069, and are considered "conditional" industries. Coverage under the General Permit is required if industrial materials, machinery or products are exposed to storm water, and if this storm water discharges from the facility as surface runoff.
5. VIP has been conducting business at 540 South Cypress Street, La Habra, California, since 1996, without General Permit coverage. Prior to 1996, the facility was located in the city of Anaheim, and was covered under the General Permit (WDID No. 830S004953). On April 15, 1996, Board staff requested VIP to get coverage under the General Permit for its La Habra facility.

6. In a July 3, 1996 letter, VIP informed Board staff that industrial materials would not be exposed to storm water and that monitoring would be conducted to ensure against unauthorized, non-storm water discharges. Based on these assurances, staff agreed that coverage under the General Permit was not required at that time.
7. On July 19, 2001, Regional Water Board staff (staff) inspected VIP to assess the nature of industrial operations and whether industrial materials, machinery or products are exposed to storm water, which is subsequently discharged from the facility as surface runoff. During the course of this inspection, staff observed the following conditions:
  - a. Talc powder was noted on paved surfaces throughout the site, and was subject to commingling with storm water or non-storm water and subsequently migrating into the storm drain system;
  - b. Trash-filled dumpsters, a large number of cardboard boxes, debris, and rubber materials were situated directly in the storm water swale;
  - c. Drums containing waste oil and uncovered buckets of oily debris were observed in the wash area, and were surrounded by wash water discharge. Some of the 55-gallon drums were uncovered, or contained a substantial amount of oily residue on their surfaces. No BMPs were in place to address spills/leaks;
  - d. A large amount of salvaged equipment, empty 55-gallon drums, and drums partially filled with oil were stored to the rear of the facility. No BMPs were in place to reduce/eliminate commingling of oil associated with old equipment and oil-filled drums with storm water or non-storm water and subsequently migrating into the storm drain system; and
  - e. Oil spots were apparent within the chemical storage unit, at the entrance to the storage unit, and leading into the adjacent storm gutter. While this covered area protects stored items from exposure to storm water, no BMPs were in place to address spills/leaks which occur within the unit from migrating into the nearby storm gutter and subsequently into the storm drain system.

These conditions mandate that the facility be covered under the General Permit.

8. Further, during the July 19, 2001 inspection, it was noted that unauthorized, non-storm water was being discharged from the facility into the adjacent flood control channel. This low-volume discharge was identified as talc-laden wash water, originating from a washing machine with broken welds. The outlet into the flood control channel contained a substantial amount of talc residue, suggesting that previous unauthorized, non-storm water discharges had also occurred.

9. The unauthorized discharge of talc-laden wash water is in violation of Section 13376 of the California Water Code, and, pursuant to Section 13385(a)(1), civil liability may be imposed by the Board. VIP also failed to obtain coverage under the General Permit. Section 13385(c) provides that a regional board may impose administrative civil liability in an amount not to exceed ten thousand dollars (\$10,000) for each day the violation occurs. Additional liability, not to exceed \$10 per gallon, may be imposed for each gallon discharged in excess of 1,000 gallons. It is estimated that the observed unauthorized discharge was less than 1,000 gallons.
10. Pursuant to Section 13385(c), VIP is civilly liable for a maximum of \$10,000 (one day of violation), for the violations cited in Paragraph 9, above.
11. Regional Board staff spent a total of 8 hours investigating this incident (@\$70/hr, the total cost for staff time is \$560). Total cost savings to VIP for failing to maintain coverage under the General Permit for the past six years, developing and implementing an adequate Storm Water Pollution Prevention Plan, and properly training employees is estimated to be \$5,500.
12. Section 13385(e) specifies factors that the Board shall consider in establishing the amount of civil liability. After consideration of those factors, the Executive Officer proposes that administrative civil liability be imposed on VIP by the Board in the amount of \$10,000 for the violations cited above.


### WAIVER OF HEARING

You may waive your right to a hearing. If you choose to do so, please sign the attached waiver form and return it, together with a check or money order payable to the State Water Resources Control Board for the amount of civil liability proposed under Paragraph 12, above, to:

Santa Ana Regional Water Quality Control Board  
3737 Main Street, Suite 500  
Riverside, CA 92501-3348

If you have any questions, please contact Mark Smythe at (909) 782-4998, or Michael Adackapara, at (909) 782-3238. For legal questions, contact the Regional Board's staff counsel, Ted Cobb at (916) 341-5171.

8/15/01  
Date

  
Gerard J. Thibeault  
Executive Officer

In the matter of:

VIP Rubber Company, Inc.

540 South Cypress Street

La Habra, CA 90631

Attention: Howard Vipperman, President

) Complaint No. 01-91

) for

) Administrative Civil Liability

WAIVER OF HEARING

I agree to waive VIP Rubber Company, Inc.'s right to a hearing before the Santa Ana Regional Water Quality Control Board with regard to the violations alleged in Complaint No. 01-91. I have enclosed a check or money order, made payable to the State Water Resources Control Board, in the amount of \$10,000. I understand that I am giving up VIP Rubber Company, Inc.'s right to be heard and to argue against allegations made by the Executive Officer in this Complaint, and against the imposition of, and the amount of, the liability proposed.

\_\_\_\_\_  
Date

\_\_\_\_\_  
for VIP Rubber Company, Inc.